



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

September 5, 1984

You request a ruling regarding the application of the Massachusetts sales and use taxes to the sales of tangible personal property made by a subsidiary company ("Subsidiary") of

You state that the Subsidiary is headquartered in Maryland and solicits sales to customers in Massachusetts through independent contractors. The Subsidiary has no sales office in Massachusetts.

Chapter 64H, Section 2 of the Massachusetts General Laws imposes a five percent sales tax on retail sales of tangible personal property in Massachusetts. Chapter 64I, Section 2 imposes a complementary use tax on the storage, use, or other consumption of tangible personal property purchased for storage, use, or other consumption in Massachusetts.

A vendor is defined as "a retailer or other person selling tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed by [Chapter 64H]." (G.L. c. 64H, § 1(18); see also G.L. c. 64I, § 1(1)). No person shall do business in Massachusetts as a vendor unless a registration is issued to him for each place of business. (G.L. c. 64H, § 7; see also G.L. c. 64I, § 9).

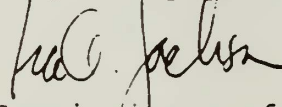
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The term "engaged in business in the commonwealth" is defined as

having a business location in the commonwealth; regularly soliciting orders for the sale of tangible personal property by salesmen, solicitors, or representatives in the commonwealth, unless such activity consists solely of solicitation by direct mail or advertising via newspapers, radio or television; or regularly engaging in the delivery of property in the commonwealth other than by common carrier or United States mail. (G.L. c. 64H, § 1(5); see also c. 64I, § 1(1)).

If independent contractors are regularly soliciting orders on behalf of the Subsidiary other than solely through direct mail or newspaper, radio, or television advertising, or if the Subsidiary is regularly making deliveries in Massachusetts other than by common carrier or United States mail, the Subsidiary is engaged in business in Massachusetts and should therefore register as a vendor for sales tax purposes.

Very truly yours,



Commissioner of Revenue

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